

Scroll down to continue



# Part One

## Mediation Overview

# Introduction to Mediation

- Mediation is required whenever there is a dispute about child custody or visitation
- Mediation focuses on developing an agreement between parents that is in the best interest of your children

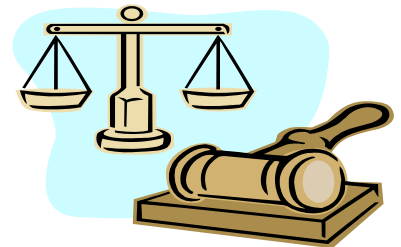



Family Code  
§3170

# California Law Defines Three Purposes of Mediation

- To reduce conflict between the parents
- To develop an agreement ensuring the child's close and continuing contact with both parents consistent with public policy and
- To effect a settlement regarding visitation rights that is in the best interest of the child

Family Code §3161





# Mediation is to Assist Both Parents Reach an Agreement

- Mediators will help you work out the terms of a parenting plan with the other parent
- Your parenting plan may consist of:
  - How time will be shared during the school year and summer
  - Holidays and vacation schedules
  - Transportation and exchanges, and;
  - Other important details

# What if Parents Already Have an Agreement?

- If both parents agree to a parenting plan, then there is no need for mediation
- To make your plan a court order, you must provide a written agreement to the court for approval
- If you have an agreement but need assistance with the paperwork, let the court know so we can help



Scroll down to continue



# Part Two

## The Mediation Process

# Mediation Goals

- Help you reach an agreement that's in the best interest of the children
- Work out the details of your parenting plan
- Reduce conflict between the parents
- Enhance understanding of the other parent's point of view
- Focus on what works best for your children



# What is Discussed in Mediation?



- A parenting plan that is in the best interest of your children

**Family Code Sections 3011 and 3020**



# What is NOT Discussed in Mediation?

- Child Support
- Spousal Support
- Property and other monetary disputes



# What Can be Included in a Parenting Plan?

- Child sharing plan
- School year schedule
- Summer schedule
- Holidays and birthdays
- Vacations
- Transportation and exchanges
- Phone calls
- Extra-curricular activities



# Parenting Plan Considerations

- Age and emotional stage of development of each child
- Planning for change as your children grow
- Letting your children know about schedule changes
- Your child's special needs
- Telling your children when they will see the other parent



# Legal Custody May be Discussed

- Legal custody includes the right to make decisions about a child's residence, health, education, and welfare
- Legal custody is either joint or sole
  - Joint legal custody = both parents have the right to make decisions
  - Sole legal custody = one parent has the exclusive right to make decisions



Family Code Sections 3003 and 3006



# Physical Custody Might be Discussed

- Physical custody is either joint or sole
  - Joint physical custody =
    - Both parents share significant periods of physical custody that assures frequent and continuing contact with both parents
    - Does not necessarily mean equal time share
    - One parent may still be designated as the primary caregiver for the purpose of receiving public benefits
  - Sole physical custody =
    - One parent provides primary supervision and physical control of the child
    - Other parent still retains rights of visitation



# Custody Considerations When There is Domestic Violence

- If an act of domestic violence is committed by a parent, the court presumes that they should not have custody of the children
- This presumption may be challenged at a court hearing regarding custody of your children
- Domestic violence orders are handled outside of the mediation process

**Family Code 3044**

# Mediation in Napa is “Non- Recommending”



- Mediation in Napa is “non-recommending,” which means, if no agreement is reached, the following will occur:
  - The matter will be referred back to court
  - The mediator will not discuss what happened during your sessions
  - The mediator will not make a recommendation to the judge



# Confidentiality Exceptions

- Mediation is confidential with the following exceptions:
  - Mediators can recommend to the judge that an attorney be appointed for the child if appropriate
  - Mediators must report the following to the local child protection agency or law enforcement
    - Abuse or neglect
    - A person's intent to kill





# Mediation Process

- The first mediation session starts with separate interviews
- The parent who filed the current request goes first
- After the initial interview, parents are expected to meet together unless domestic violence is alleged
- Generally, the participants only include the legal parents and the mediator
- Some cases may have two mediators assigned to help



# Special Rules if There is Domestic Violence

- Restraining Orders are to be obeyed at all times
- A separate waiting room is available for each party
- Mediation will begin with separate sessions
- A support person may be present during the mediation session
- Joint sessions may take place based on the Mediator's discretion if the restraining order allows for "peaceful contact for the purposes of child sharing"
- If you feel unsafe at any time, the Mediator will end the joint session and interview both parents separately

# Important Points to Keep in Mind

- Children do best when parents get along
- Put aside your differences for your children's sake
- Come to mediation with an open mind



# Mediation Guidelines

## ■ Do

- ☐ Focus on child's best interest
- ☐ Come with an open mind
- ☐ Prepare to discuss several possible options

## ■ Don't

- ☐ Focus on the other parent
- ☐ Reject a proposal without consideration
- ☐ Let others make decisions for you



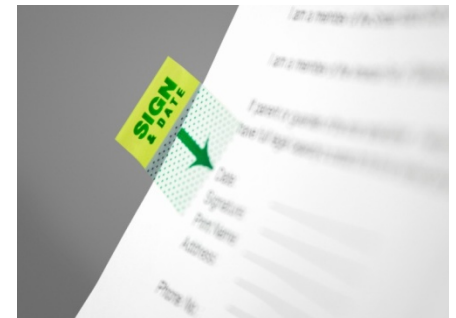
# During Mediation

- Each parent presents their proposals for child sharing and custody
- Parents negotiate and compromise to reach an agreement
- The mediator
  - Remains neutral
  - Does not represent either side
  - Helps both parties reach an agreement



# Mediation Outcomes

- Agreement Reached
  - Both parents sign
  - Forwarded to judicial officer for approval
- Partial Agreement
  - Agreed upon terms
    - Signed by parents
    - Forwarded to judicial officer for approval
  - Remaining issues
    - Further mediation or
    - Returned to court for decision
- No Agreement
  - Returned to court for decision



# When Represented by an Attorney

- If either or both parents are represented by an attorney, the agreement must be approved and signed by the attorney or attorneys before it is sent to the judge for signature



# Who Are Your Mediators?

- Masters Degree (or higher) in a behavioral science such as psychology, social work, marriage, family, or child counseling
- A minimum of two years experience, knowledge of the court system and community resources





# Children in Mediation

- Mediators may use their discretion in deciding if it is necessary to interview your children
- Mediators are trained to work sensitively in these matters
- Children are not asked to choose sides or to choose between parents





# Mediator Limitations

- Mediators may not discuss your case with:
  - ☐ Judicial Officers
  - ☐ Attorneys, including your own
  - ☐ Either parent alone outside of mediation
- Mediators cannot:
  - ☐ Give legal advice
  - ☐ Discuss child support, spousal support, or division of property
- Mediators may not mediate if there is an open Child Welfare Services (CWS) case involving the same children



# Frequently Asked Questions

How do I get my mediation appointment?	The court will send notice of your mediation appointment after both parties have completed orientation.
When are appointments?	Scheduled Monday-Friday for 90 minutes, at 8:30, 10:30, 1:30 and 3:15.
What if someone fails to attend mediation?	A failure to appear will be noted in your court record which is accessible at any hearing. The judge may also impose a monetary sanction.
How much does it cost?	It is free if you appear as scheduled
What if someone is late?	Mediation cannot start until both parties arrive. A late arrival of 15 minutes will result in a reschedule of the appointment.

# Frequently Asked Questions, cont.

Who Should attend?	Both parents attend together. <b>Do not bring children.</b>
Can I reschedule?	Only in an emergency! Call (707) 299-1240 to confirm your appointment at least 72 hours in advance.
Where is mediation held?	Mediation sessions are held in the Family Court Services Offices <input type="checkbox"/> Lower Level of the Historic Courthouse



Scroll down to continue



# Part Three

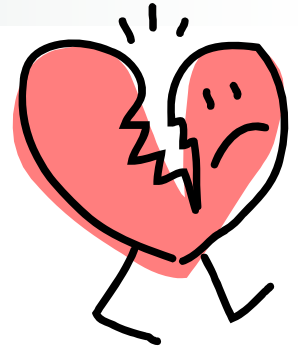
## Emotional Issues

# Children Love Both of Their Parents Equally

- It isn't their job to choose
- It is your job to decide



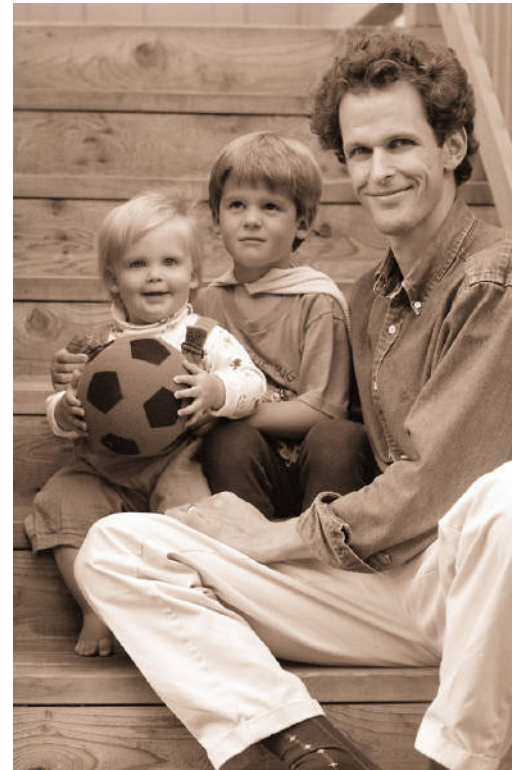
# Emotional Justice



- If you are here to right an emotional wrong, Family Court is not the place
- Mediation is not about winning or losing – it's about problem solving for the best interest of your children
- Consider counseling and/or join a support group to help you

# You Stop Being Partners but...

- You continue as parents
- Separate your feelings about the other parent from your child's needs
- Your children need you both





# Research Findings

## Children

- Who witness family violence of any kind are emotionally traumatized
- Need to be emotionally and physically safe from parental conflict
- Need a relationship with both parents



# Research Findings, cont.

## Children:

- Need consistency and stability from both parents, not necessarily equal time
- Do better when they know when they will be spending time with each parent
- Experience a great sense of loss in a separation and/or divorce
- Need emotional support and guidance through the process





# Psychological Tasks for Children in Separation

Based on Judith Wallerstein's book Second Chances

1. Acknowledgement of the reality of the separation.
2. Disengaging from the parental conflict.
3. Resolution of loss.
4. Resolving anger and blame.
5. Achievement of realistic hope about relationships.
6. Accept the permanence of the separation.



# Stages of Grief and Loss Through Separation

Stages	For Adults	For Children
<b>Denial</b>	This can't be happening. S/he will come back and we will work it out.	Mom and Dad can't be hurting me and each other like this. Its only temporary. They will get back together.
<b>Anger</b>	How could s/he do this to me? I'm the responsible one. S/he is not the person I knew.	How could they do this to me? If they loved me, they would stay together.
<b>Bargaining</b>	If we get counseling or I change, then we'll get back together.	If I am really good, maybe they will get back together.

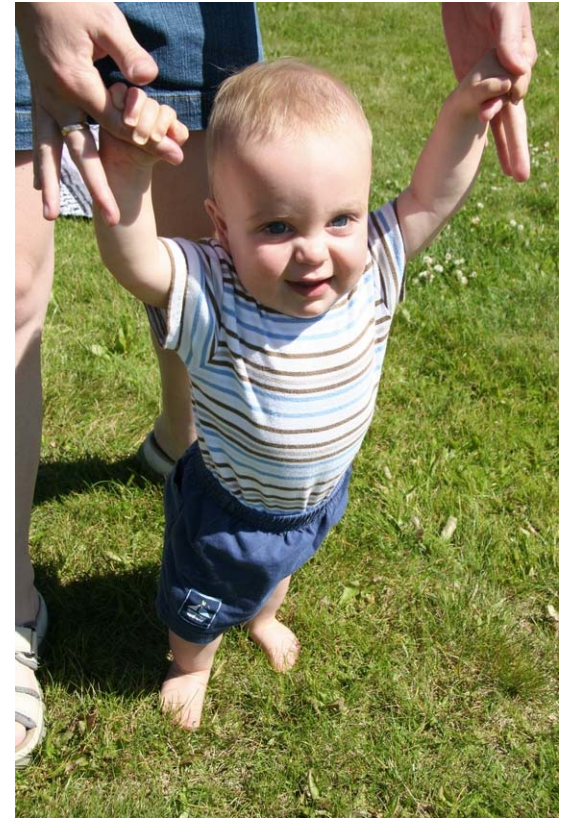


## Stages of Grief and Loss Through Separation, cont.

Stages	For Adults	For Children
<b>Depression</b>	I'm overwhelmed. I can't cope. It's all too much. No one understands.	It's my fault. I hate school. I hate my life. Nothing is okay.
<b>Acceptance</b>	It's over. I need to get on with my life and career and help our kids get their lives back to normal.	Mom and Dad are not getting back together and it's okay.
<b>Growth</b>	I've moved on. I know myself better. I'm ready for something new.	I don't have to pretend anymore.

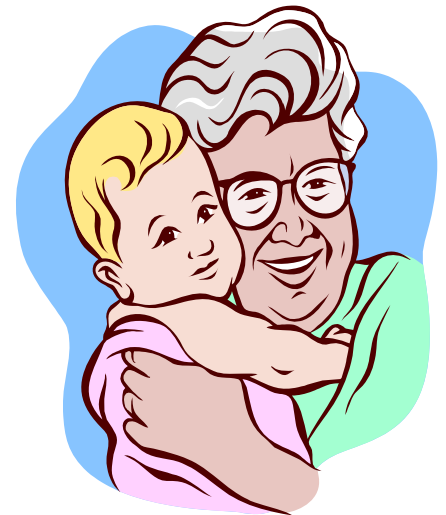
# Supporting Your Children

- Support the time the child is with their other parent
- Promptly share child related information
- Tell your children they are not the cause of the separation
- Remind your children both parents will always love them and take care of them



# Supporting Your Children, cont.

- Give your child permission to love both parents and their loved ones
- Enjoy and admire your children
- Give your child permission to have a positive relationship if there is a new significant other
- Don't use time with the other parent as a reward or punishment for good or poor behavior



# How to Respond to Your Child's Questions

- Acknowledge the child's feelings
- Be reassuring
- Don't give too much detail
- Provide age appropriate information
- Consider professional help if needed





Scroll down to continue



# Part Four

## Parenting



# Understanding Parenting

- Traditional Parenting
  - Intact family in home
- Parallel Parenting
  - Separate homes with separate rules
  - Recognition and respect of other parent's parenting style
  - Child's challenges adjusting and adapting to two sets of rules & expectations



# Understanding Co-parenting

- Important points about co-parenting
  - Working together, communicating, and supporting each other—for the sake of your children
  - The 3 “C’s” of Co-Parenting:
    - Communication
    - Collaboration
    - Coordination

# Communication is the Key to Successful Co-parenting

- Sharing information regarding child's activities
- Listening
- Maintain focus on children
- Avoid conflict while children are in earshot
- Timeouts when conversation is tense





# Co-parenting Tips

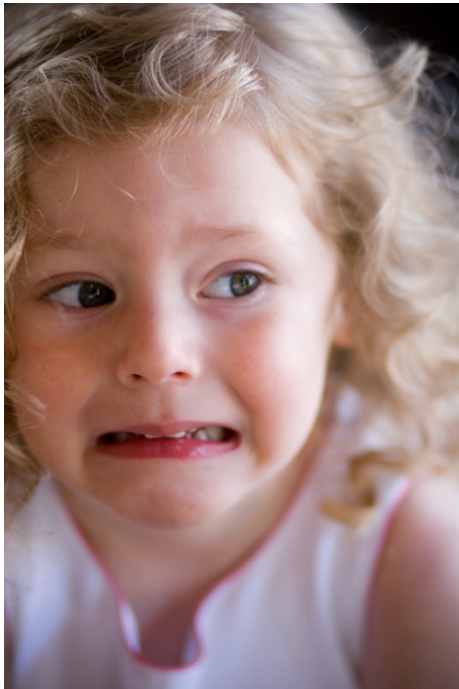
- Be respectful of each parents' role in child's emotional development
- Respect each other's point of view
- Maintain flexibility for child's needs
  - Vacations, Special Events, Illness
- Consistency in routine between both homes as much as possible
  - Bedtimes, Nutrition, Hygiene, Homework, TV & Computer, Discipline

# Problems You Can Avoid

- Using your child as a spy, messenger, pawn, or bargaining chip
- Criticizing the other parent in front of them
- Making your child take sides
- Withholding your love when you are angry with the other parent



# More Problems to Avoid



- Withholding visits
- Arguing in front of your child
- Speaking negatively about the other parent or their loved ones
- Focusing on the small stuff, remember the bigger picture
- Excluding the children from their extended family members, including half and step siblings and grandparents

# Available Services

- Parent Education
- Supervised Visitation
- Anger Management
- Counseling
  - ☐ Individual Counseling
  - ☐ 'Couples' Counseling
  - ☐ Parent-child Counseling
  - ☐ Reunification Counseling



**For more information, contact Family Court Services  
at (707) 299-1240**



# Important Reminders

- It is a difficult time for both children and parents
- Your behavior will impact your child's ability to experience healthy future relationships
- Children will need your support





# Remember

- Parents who make their own mutual decisions regarding their Parenting Plan are less likely to need future court involvement and are generally happier with the outcome
- Parenting continues beyond your child's 18<sup>th</sup> birthday